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*Attorneys for Irving H. Picard, Trustee
for the Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities LLC
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff

v.

ROBERT LAYTON, as an individual and as a joint
tenant, and GERDA LAYTON, as an individual
and as a joint tenant,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 10-04967 (SMB)

**TRUSTEE'S REQUEST TO ENTER DEFAULT AS TO
DEFENDANT GERDA LAYTON**

To: CLERK OF THE COURT
UNITED STATES BANKRUPTCY COURT

Irving H. Picard (the "Trustee"), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, et seq., and the Estate of Bernard L. Madoff, by and through his counsel, Baker & Hostetler LLP, respectfully requests that the Clerk of the Court issue a Certificate of Default against defendant Gerda Layton pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, made applicable to this Adversary Proceeding by Rule 7055 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rule for the Southern District of New York 7055-1, for failure to plead or otherwise defend the above-captioned action as it fully appears from the Court file and from the attached Affidavit.

WHEREFORE, the Trustee respectfully requests that this Court grant the Trustee's request in its entirety and provide for such other relief as this Court deems just and proper.

Dated: New York, New York
October 13, 2017

Of Counsel:

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Michael R. Matthias
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*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
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Defendant.

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and as a joint tenant,

Defendants.

Adv. Pro. No. 10-04967 (SMB)

**AFFIDAVIT SUPPORTING ENTRY OF DEFAULT AS TO
DEFENDANT GERDA LAYTON**

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

Michael R. Matthias, being duly sworn, hereby attests as follows:

1. I was admitted pro hac vice into this Court and am a partner at the firm of Baker & Hostetler LLP, which is counsel for Irving H. Picard ("Trustee"), Trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* ("SIPA") and the estate of Bernard L. Madoff, individually.

2. On December 2, 2010, the Trustee commenced this adversary proceeding by filing a complaint (the "Complaint") against Gerda Layton ("Defaulting Defendant"). (Dkt. No. 1.) The Complaint asserted claims pursuant to sections 78fff(b), 78FFF-1(a) and 78fff-2(c)(3) of SIPA, sections 105(a), 544, 548(a), 550(a), and 551 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*, and other applicable law, seeking the avoidance and recovery of fraudulent transfers in connection with certain transfers of property by BLMIS to or for the benefit of Defaulting Defendant. (*Id.*).

3. On February 9, 2011, the Clerk of this Court issued a summons upon Defaulting Defendant. (Dkt. No. 3).

4. On March 7, 2011, the Trustee, in accordance with Bankruptcy Rule 7004(b) of the Federal Rules of Bankruptcy Procedure, timely served the Summons and Complaint upon Defaulting Defendant. (*See* Dkt. No. 5). A Certificate of Service evidencing proper and timely service were filed with the Court. (*Id.*). A true and correct copy of the Certificate of Service is attached hereto as Exhibit A.

5. Pursuant to the Order (1) Establishing Litigation Case Management Procedures For Avoidance Actions And (2) Amending The February 16, 2010 Protective Order governing the litigation of certain avoidance actions, including this adversary proceeding, the time by which Defaulting Defendant may answer or otherwise move with respect to the Complaint expired August 8, 2011.

6. Despite being duly served with the Summons and Complaint, Defaulting Defendant did not file an answer, move, or otherwise respond to the Complaint.

7. On October 11, 2017, the Trustee filed a Notice of Voluntary Dismissal dismissing Count One and Counts Three through Seven only of the Complaint. (See Dkt. No. 7). The Notice of Voluntary Dismissal had no effect on the Trustee's claims against Defaulting Defendant in Count Two of the Complaint.

8. Upon information and belief, the Defaulting Defendant is neither an infant nor incompetent.

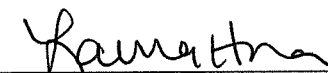
9. On October 12, 2017, I performed a search on the Department of Defense Manpower Data Center (DMDC). Upon searching the information data banks of DMDC, the DMDC does not possess any information indicating that Defaulting Defendant is currently on active duty as to all branches of the Military.

10. I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief.



Michael R. Matthias

Sworn to before me this 13th day of October 2017.



Notary Public



EXHIBIT A

UNITED STATES BANKRUPTCY COURT, SOUTHERN DISTRICT OF NEW YORK

IRVING H. PICARD, TRUSTEE FOR THE
LIQUIDATION OF BERNARD L. MADOFF
INVESTMENT SECURITIES LLC

PLAINTIFF/PETITIONER

VS.

ROBERT LAYTON, et al.

DEFENDANT/RESPONDENT

CAUSE #: ADV. PRO. NO 10-04967 (BRL)

CERTIFICATE OF SERVICE

This service has been completed in compliance with the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil and Commercial Matters (Done at The Hague November 15, 1965) (Entered Into Force for the U.S. on February 10, 1969). The Certificate of Service attached is also in compliance.



ABC Legal Services, Inc.
633 Yesler Way Seattle, WA 98104
206 521-9000

TRACKING #: 6350727



ORIGINAL
PROOF OF SERVICE

BAKER & HOSTETLER LLP
45 ROCKEFELLER PLAZA
NEW YORK, NY 10111
212 688 4656

Page 1 of 1

RACCOMANDATA



Palazzo di giustizia
Via Pretorio 18
6901 Lugano
telefono 091/815 64 71
fax 091/814 47 39

Repubblica e Cantone
del Ticino

Funzionario/a
Incaricato/a

Liliana Bernasconi

**Tribunale d'appello
Rogatorie internazionali
6901 Lugano**

Email

dl-ta.rogatorie@ti.ch

Avv. Hamilton Rick
633 Yesler Way
USA-WA 98104 Seattle
(Stati Uniti d'America)

Nostro rif.
191/2011

Vostro rif.
causa n. 09/11893
(BRL)

Lugano
9 marzo 2011

Domanda rogatoriale di notifica atti a Gerda Layton, Ascona

Conferma di notifica - confirmation de notification - confirmation of service - Zustellungsbestätigung

Gentili Signore, Egregi Signori,

trasmettiamo l'unito atto debitamente notificato al destinatario in data 07 marzo 2011.

Distinti saluti.

Per il Presidente del Tribunale d'appello
Liliana Bernasconi, segretaria



Allegati: atti di ritorno + dichiarazione di ricevuta.

REQUEST FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS

Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at The Hague, November 15, 1965.

Identity and address of the applicant
Rick Hamilton 633 Yesler Way Seattle, WA 98104 United States of America
Authorized applicant pursuant to public law 97-351 of Feb. 26, 1983 which amended rule 4(e) 2(n) Federal Rules of Civil Procedure

Address of receiving authority
TRIBUNALE DI APPELLO VIA PRETORIO 16 6901 LUGANO

The undersigned applicant has the honour to transmit in duplicate the documents listed below and in conformity with article 5 of the above-mentioned Convention, requests prompt service of on **TRIBUNALE DI APPELLO** on the addressee, i.e.; **ROGATORIE**
 (identity and address) **- 4 MAR. 2011**

GERDA LAYTON INDIVIDUAL AND AS JOINT TENANT, CASA AL BOSCO
VIA COLLINETTA 67
ASCONA, CH 6612 GY1 1LU
SWITZERLAND

Esibito No. 191 u

DOB: Phone:

- ☒ (a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of article 5 of the Convention.*
- ☐ (b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of article 5):*

- ☐ (c) by delivery to the addressee, if he accepts it voluntarily (second paragraph of article 5).*

The authority is requested to return or to have returned to the applicant a copy of the documents – and of the annexes* – with a certificate as provided on the reverse side.

Hearing Date:

List of documents:

SUMMONS AND NOTICE OF PRETRIAL CONFERENCE IN AN ADVERSARY PROCEEDING; COMPLAINT WITH EXHIBIT A; NOTICE OF APPLICABILITY OF THE ORDER APPROVING LITIGATION CASE MANAGEMENT PROCEDURES FOR AVOIDANCE ACTIONS; LETTER; ORDER (1) ESTABLISHING LITIGATION CASE MANAGEMENT PROCEDURES FOR AVOIDANCE ACTIONS AND (2) AMENDING THE FEBRUARY 26, 2010 PROTECTIVE ORDER WITH EXHIBIT A, 1, 2, AND 3; THIRD AMENDED NOTICE OF OMNIBUS AVOIDANCE ACTION HEARING DATES

Done at Seattle, Washington USA, on Mar 2 2011

Signature and/or stamp

[Signature]

PFI | PROCESS FORWARDING



TRACKING #: 6350727



USM-94 (Est. 11/22/77)
 (Formerly OBD-116, which was formerly LAA-116, both of which may still be used)
 * Delete if inappropriate.

SUMMARY OF THE DOCUMENT TO BE SERVED

Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at The Hague, November 15, 1965.

(article 5, fourth paragraph)

Name and address of the requesting authority: Rick Hamilton
633 Yesler Way
Seattle, WA 98104
United States of America

Particulars of the parties:

IRVING H. PICARD, TRUSTEE FOR THE
LIQUIDATION OF BERNARD L. MADOFF
INVESTMENT SECURITIES LLC

vs. ROBERT LAYTON, et al.

JUDICIAL DOCUMENT*

Nature of the document:

To give notice to the Defendant of the institution against them of a civil lawsuit.

Nature and purpose of the proceedings and, where appropriate, the amount in dispute:

Plaintiff is seeking to avoid and recover transfers and other relief, amount to be determined in court.

Date and place for entering appearance:*

Defendant has 180 days to make a written appearance, address is noted on the accompanying Summons

Court which has given judgment:*

n/a

Date of judgment:*

n/a

Time limits stated in the document:*

Hearing Date:

EXTRAJUDICIAL DOCUMENT*

Name and purpose of the document:

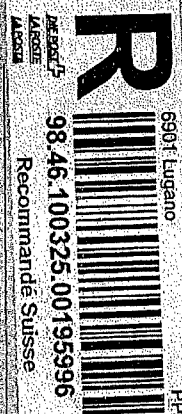
n/a

Time limits stated in the document:*

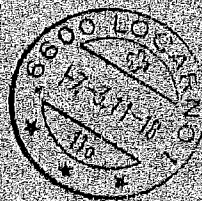
n/a

6350727

Atto giudiziario da recapitare a:



Gerda Layton
Via Coltratta 67
6612 Ascona



DICHIARAZIONE DI RICEVUTA

(da esigere oltre a quella rilasciata sul libretto del fattorino)

Il sottoscritto dichiara di aver ricevuto l'invio qui unito:

Autorità richiedente: Avv. Hamilton Rick (per Tribunale

fallimentare degli Stati Uniti, Distretto

internazionale di New York, USA)

Notifica atto giudiziario (rog. n. 191/2011)

Lugano *Gerda Layton*

data: *7.03.2011*

firma del destinatario

Se l'atto è consegnato ad una persona diversa dal destinatario, indicare il nome completo e la relazione con il destinatario (ad esempio moglie, impiegato, ecc.)

Da retrocedere al Tribunale d'appello, Rogatorie internazionali, casella postale, 6901 Lugano